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efficiencies resulting from the modernization effort.

Through IMIP, we anticipate up to \$4 billion in taxpayer savings over the next decade, as well as a strengthened industrial base.

A historical lack of program stability in space contracts in terms of funding and requirements has hampered investment in new technology to improve productivity. However, the Air Force now is fostering stability with acquisition initiatives like baselining and multiyear procurement.

We have had great success with multiyear procurement, including six major programs under multiyear contracts instead of annual buys. Three of these programs include space systems: the Navstar Global Positioning System, the Defense Meteorological Satellite Program, and the Defense Satellite Communication System.

Although space systems are playing an increasing role in our nation's warfighting capability, I realize that the space business is still largely characterized by high-cost piece parts and low-volume system acquisitions. However, we still must find ways to reduce costs. If there are low-cost ways to automate production, even for limited quantities of space hardware, we need to find them. One place to start is by taking a hard look at computer-aided manufacturing applications in all facets of space system production.

Despite the fact that space systems are bought in small quantities, improved methods for manufacturing them are not contract-specific. Therefore, a space systems producer who invests in versatile machining systems like robotics, automation, and computer-aided manufacturing has the ability to diversify and become more competitive in the marketplace. For example, one aerospace company modernized a facility that makes integrated circuits for tactical missiles. That same facility now can make integrated circuits for space and C<sup>3</sup> systems. Modernization pay dividends.

Much of what I have said here about the need for high quality and increased productivity in our nation's defense industry has been said before. In fact, these very issues were discussed at length a little over two years ago in this same publication. Since then, many of us in the defense acquisition business have repeated the same themes in countless speeches, articles, and meetings with defense industry representatives. Some companies have responded to our call for action; many have not. As a consequence, our industrial base still faces problems that require vigorous action to ensure timely and lasting resolution.

Let's face facts. At one time there was no question about the industrial superiority of the United States. We were the world's supplier of technologically advanced products, and our defense industry produced weapon systems that were superior to those of other nations. Today, many of our systems are still the best in the world, but our margin of superiority is slipping.

It's time to get back on track—and without delay. Air Force Systems Command is doing its part in what must be a mutual get-well effort. We are looking for ways to work smarter, not harder, and we're sharing our ideas with our partners in industry. We are looking for a complementary effort on the part of industry so we can get on with solving the problems of today and meeting the even greater challenges of the future.

In a very real sense, our national security is at stake. Our potential adversary continues to outproduce us in military hardware, and the quality of his systems is on the rise. At the same time, the American people are getting fed up with reports about the way we in the defense-industry team are con-

ducting our business. The American people do not understand overpriced hammers, missiles that don't work, or poor workmanship on sophisticated weapon system components—nor should we have to ask them to. We must get it right the first time.

By working together, with a genuine commitment to improve quality and productivity, I firmly believe that we can regain our qualitative edge and restore the public's confidence and trust. We must succeed in this endeavor because the alternative, quite simply, is unacceptable.

Mr. BUMPERS. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. Under the previous order, the Senate will now temporarily lay aside the pending amendment, and the Senator from Massachusetts [Mr. KENNEDY] is recognized to offer an amendment to strike the Davis-Bacon provision.

Mr. BUMPERS. Is the amendment that is being laid aside the Kerry amendment?

The PRESIDING OFFICER. That is correct.

Mr. BUMPERS. Is there a time agreement on the Kerry amendment and the Kennedy amendment—a time certain to vote?

The PRESIDING OFFICER. There is a 1-hour time agreement on the Kennedy amendment and a 40-minute time agreement on the Kerry amendment. There is no time certain for a vote.

Mr. BUMPERS. Following the disposition of the Kennedy and Kerry amendments, are there any unanimous consent agreements to dictate the schedule for the remainder of the DOD bill?

The PRESIDING OFFICER. Yes. Under the previous order, upon the disposition of the Kerry amendment, the Senator from Wisconsin [Mr. PROXMIER] will be recognized to offer amendment No. 119.

Mr. BUMPERS. Is that going to be after a vote on the Kennedy amendment?

The PRESIDING OFFICER. After the vote on the Kennedy amendment and the Kerry amendment.

Mr. BUMPERS. Are there any orders following the Proxmire amendment?

The PRESIDING OFFICER. There are not.

Mr. BUMPERS. I thank the Chair. Mr. GRAMM. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRAMM. Is there a unanimous consent request pending that the Kennedy amendment be in order, that there be 30 minutes to each side, that there be a yeas and nays vote, and that the yeas and nays be ordered at that time that both sides have used up their time?

The PRESIDING OFFICER. That would take unanimous consent. The amendment is not pending at this time—relating to the yeas and nays, specifically.

Mr. GRAMM. So, further making a parliamentary inquiry, the unani-

mous-consent request does not set out a requirement for the yeas and nays. The PRESIDING OFFICER. That is correct.

AMENDMENT NO. 254

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself, Mr. SPECTER and Mr. PACKWOOD, proposes an amendment numbered 254.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 74, line 3, strike all through page 76, line 13.

Mr. KERRY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KERRY. Mr. President, it was my understanding, although there was not a unanimous-consent agreement with respect to the yeas and nays—perhaps the chairman of the committee, the manager of the bill, can clarify this—whether or not there was an understanding that there would be a proceeding to the yeas and nays with respect to that amendment.

The PRESIDING OFFICER. Any Senator has the right to request the yeas and the nays at an appropriate time.

Mr. KERRY. It is my understanding that we were proceeding along an agreement that we would do that. Is that clear?

Mr. GOLDWATER. My President, I think the yeas and nays were ordered on the Kerry amendment.

The PRESIDING OFFICER. The yeas and nays were ordered. On the Kennedy amendment there has been no order for the yeas and nays.

Mr. KERRY. But with respect to my amendment, I believe the yeas and nays have been ordered.

The PRESIDING OFFICER. The Senator is correct.

Mr. KERRY. I thank the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I understand that we have a 1-hour time limitation, and I ask unanimous consent that the previous inquiries not be counted against the time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I yield myself such time as I may use.

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Mr. President, this amendment, which I am offering on behalf of myself, Senator SPECTER and Senator PACKWOOD, strikes the Davis-Bacon provisions of the so-called Gramm amendment from the pending defense authorization bill. Those provisions, which were added to the bill in committee, at the last minute, without any hearings and little opportunity for debate, are an unjustified intrusion on the jurisdiction of the Labor and Human Resources Committee and an indefensible assault on the wages of construction workers across this country. Contrary to the claims of the Senator from Texas, his language does not codify existing administrative practice, it will not reduce military construction costs, it will not produce any savings for the Federal Government, and it does not belong in this bill. What it will do is effectively strip both union and nonunion workers on military construction projects, in both urban and rural areas across the country, of all the prevailing wage protections currently provided under every other type of federally supported construction project.

The Gramm amendment makes two major changes in the Davis-Bacon law as it applies to military construction projects. First, it would raise the current \$2,000 coverage threshold to \$1 million and thereby exempt the vast majority of military construction contracts from the Davis-Bacon Act.

According to figures prepared for CBO by the Federal procurement data center, 95 percent of all military construction contracts, or about 48,000 out of approximately 51,000 contracts, covering 40 percent of the dollar volume of those contracts, will be totally exempt from Davis-Bacon requirements if the pending language is adopted.

The Gramm amendment also substantially alters the way in which job classifications and wage rates are established for those few contracts that would still be subject to Davis-Bacon and would, in effect, repeal the law with respect to those contracts as well.

Supporters of the Gramm provisions claim their amendment will simply "codify" existing Labor Department regulations which have been upheld by the courts. That claim is wrong. The Gramm amendment goes far beyond anything the Reagan administration has ever proposed regarding the administration of the Davis-Bacon Act. In the first place, the administration has never proposed an increase in the threshold by \$1, let alone to \$1 million. Second, on two of the regulatory changes adopted by the administration, the Gramm amendment removes worker protections which the Reagan administration, after a 2-year evaluation, chose to retain.

One of the changes the Senator from Texas proposes would prohibit the use of Federal project wage data in making prevailing wage determinations on heavy and highway construc-

tion projects. That change was specifically rejected by the Reagan administration as "not . . . practical" because in many instances Federal project data are the only data available for "heavy" and "highway" construction.

The Gramm language also claims that it codifies administrative interpretations the courts have already approved. In fact, the bill before us adopts a portion of the administration's regulations on which the District of Columbia Court of Appeals specifically ruled, saying that the Department of Labor had no legal authority to issue the regulation, subsection (B) of the Gramm amendment would allow the Secretary of Labor to issue regulations permitting the unlimited use of "helper" classifications in all circumstances on all military construction projects. However, the court of appeals told the Labor Department that it may not issue a regulation permitting the unlimited use of helper classifications because that would, and I quote, "undermine the fundamental purpose of the act, which is, that wages on Federal construction projects mirror those locally prevailing," and because it would "result in payment of lower wages than those prevailing in the community for the same work . . ."

I want to underscore that point for a moment because we sometimes lose track of just what the Davis-Bacon Act is intended to do. It does not and was never intended to require the payment of high wage rates or low wage rates or union wage rates or nonunion wage rates. The law was and is simply designed to pay the prevailing wage rate for a particular class of work in a given local area. Nothing more, but surely nothing less.

I don't know how anyone can disagree with that principle. We can argue about how to define the concept "prevailing wage." But surely we should not throw out the concept altogether. Of course, the Federal Government should not pay excessive wage rates; but just as surely, the Federal Government should not be a substandard employer.

The real purpose of the Gramm amendment is not to codify existing Davis-Bacon rules or to reform the law, but rather to repeal the concept of prevailing wage on all military construction projects for all practical purposes.

Nor is there any substantial evidence that the Federal Government will save money if this amendment becomes law. To the contrary, it is far more likely that overall costs on military construction projects will escalate. The CBO evaluation projects a small savings from the adoption of the Gramm language; it relies on previous studies by the Department of Labor, GAO, and other Federal agencies which have been thoroughly discredited. Even the best of these prior studies assume that wage cuts will automatically translate into reductions in over-

all construction project costs. That key assumption ignores differences in worker productivity and their role in determining total project costs. Even the Department of Labor, the Agency relied on most heavily by CBO, agrees that its inability to take worker productivity differences into account raises valid questions about its own cost savings estimates. As Dr. John Dunlop, Secretary of Labor in the Ford administration and one of the leading authorities in this country on the construction industry has said in this regard:

There is simply no sound basis for frantically assuming that lower wage rates in the construction industry generally mean lower costs.

The Senate should not accept an amendment whose cost-saving rationale is based on such flimsy projections.

In fact, the Gramm provisions may well increase, rather than decrease, overall costs on military construction projects; will arbitrarily and unfairly reduce wages for both union and nonunion construction workers; and will not produce any savings for the Federal Government.

I urge the adoption of my amendment that would strike the Davis-Bacon provisions from the bill.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, this Senator asks the Senator to yield for actually two questions.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. First of all, let me say I ask this question from the standpoint of someone who has not made up his mind.

Mr. KENNEDY. I am glad to yield for a question on my time.

Mr. JOHNSTON. Mr. President, I tell my distinguished colleague I am asking these questions—and I wish the Senator from Texas to answer the same two questions—from the standpoint of a Senator who has not actually made up his mind on this point.

First, does the administration support the Gramm amendment?

Second, I had thought that the problem of Davis-Bacon, that is the artificially high wage rates which I thought were insupportable under the previous law, had been pretty well cured by the regulations which the administration has adopted.

Will the Senator answer both questions? Is that true?

Mr. KENNEDY. First of all, there has been no indication that I'm aware of that the administration supports the Gramm amendment. We have no statement by the Secretary of Labor, Mr. Brock, to that effect.

Second, in the regulatory changes which became effective in January of this year, were designed to address the problem of transferring urban wage rates into rural areas as well as the

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possibility that union negotiated wage rates were given too much weight.

So the current regulations are self-evident. In my view and I discussed them in detail in the letter that I sent to the Senator from Louisiana.

Mr. JOHNSTON. If the Senator will yield further, do I understand that the change in regulations which goes in on January 1 applies alike to military construction as well as other Federal projects so there is no special problem here with military projects that needs curing, that the problem if there remains one is the same throughout all areas of industry?

Mr. KENNEDY. The Senator is quite correct, and I think what you may very well have, if my amendment is not accepted, is a good deal of confusion for contractors who will have to apply one set of standards in one area of contracting and a completely different one in another.

Mr. JOHNSTON. One final question: Employers, I think, want this as do the chamber of commerce and other groups, but their problem principally is, as I understand it, that they want to codify these rules because they think these rules are good rules. Is that correct? They are afraid they will be changed by some later administration.

Mr. KENNEDY. The fact is, and I tried to point out that in spite of the assurances that have been given by the chairman of the committee, the Gramm amendment does not codify the existing Reagan proposals of January of this year. It goes far beyond them.

There is a letter from the Defense Department indicating in the last line:

Accordingly, the Department has no objection to the inclusion of either version in the authorization bill.

That is hardly administration position.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter dated May 22, 1985, from the Deputy Secretary of Defense to the chairman of the Committee on Armed Services.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE DEPUTY SECRETARY OF DEFENSE,  
Washington, DC, May 22, 1985.

HON. BARRY GOLDWATER,  
Chairman, Committee on Armed Services,  
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of May 1, asking for my comments on legislation which would waive the Davis-Bacon Act for military construction.

I agree with your estimated savings of \$300 million for total repeal based on the Fiscal Year 1986 budget originally submitted by the President. The latest provision, however, only exempts DoD contracts less than \$1 million from the Davis-Bacon Act. We estimate this provision would save about \$150 million annually.

In addition to saving money, either version would significantly reduce administrative burdens on the government and contractors, especially small contractors.

Relief from the provisions of the Davis-Bacon Act would be of great benefit to the

Department at a time when we are under severe budget constraints. Accordingly, the Department has no objection to the inclusion of either version in the authorization bill.

Sincerely

WILLIAM H. TAFT, IV.

Mr. KENNEDY. Mr. President, I withhold the balance of the time.

Mr. JOHNSTON. I have no further questions.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Mr. President, I control the time on this side.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me set the parameters of this debate. We are here not debating labor law in a whole entire debate about Davis-Bacon. We are here debating the authorization of Department of Defense bill for 1986 fiscal year.

In this bill we find ourselves in a difficult circumstance. We have a growing Soviet menace on one hand and we have a mounting deficit menace on another.

We have adopted in this body a budget that calls for a zero real growth rate, a substantial change in public policy from the previous 4 years. The other body has adopted a budget that calls for a 4-percent reduction in the real growth of defense by denying the COLA for defense in their budget.

We, therefore, find ourselves in a position of having to reject the status quo, having to look for additional savings to allow us to meet this dual crisis of the Soviet threat and the deficit threat. And it is in that dilemma that we address this issue.

Now, the distinguished Senator from Massachusetts has questioned whether there are savings to be had from Davis-Bacon. No independent reputable authority in this Nation questions that.

Let me again, with just some data, substantiate my point. This is a study done by Alice Rivlin, Democrat, former Director of the Congressional Budget Office. In a study published in July 1983, she finds that the repeal of the Davis-Bacon provision would save over a 5-year period from 1984 to 1988 \$7.6 billion in budget authority and \$5.2 billion of outlays.

In fact, the GAO and OMB, under the Carter administration and the Congressional Budget Office have consistently found that the Davis-Bacon provisions squander the taxpayers' money. In fact, a premium as much as 40 percent above the market wage for contract labor in construction has been paid by the Pentagon, not in a ripoff of the taxpayer caused by inept administrators or corrupt officials but by an act imposed in a period of national depression in 1931 which has no applicability to today's problems. The fact that we have not changed this law, which is long overdue, is costing the taxpayer great amounts of money.

Now let me relate what we have done to bring us to this point. Initially, in the Armed Services Committee, we exempted the Pentagon from Davis-Bacon. That saved us an estimated \$300 million a year. When we went back into committee in our effort to strike a compromise, we came out with a compromise that does the following things:

First of all, it codifies the regulations that were imposed by the Labor Department as amended by a court ruling which subsequently struck down part of that proposal. Now let me outline basically what we do.

Under the old regulation, we could look at only 30 percent of the labor market to define a prevailing wage. Under this new regulation, we can look at 50 percent. Under the old regulation, we were precluded from looking at helpers that were involved in construction. Under this new regulation, we are allowed to look at helper wages if helpers are used in the production process as part of standard prevailing procedures.

Now there is a confusion here because the labor market set out to use helpers where they were clearly identifiable as part of the production process in defining Davis-Bacon. The court struck that down, but the court made it clear that where it was a prevailing practice that it was allowable. And all we have done is taken the procedures of the Labor Department that are strongly supported by American business and amended it to deal with the problems raised by the court. This is the procedure as the Labor Department intended to implement it in revising from the proposal it initially made that was in fact struck down by the court.

The second thing we did was to set out a threshold of \$1 million below which the Davis-Bacon provisions would not apply. Now this is important, Mr. President, because it opens up defense construction to small business.

I want to read you a card sent out by the National Federation of Independent Business outlining their strong support for these provisions and their opposition to the Kennedy amendment.

On behalf of the more than 500,000 members of the National Federation of Independent Business, I urge you to vote no on the Kennedy amendment to strike the Davis-Bacon reform provisions of the DOD authorization bill. After 54 years it is certainly time to reform this statute. This legislation was originally intended to provide local workers and contractors with a fair opportunity to compete on Federal projects with firms outside the area. Instead, local firms, usually small and sometimes minority owned, are now at a competitive disadvantage with large firms outside who are able to pay the higher than average Davis-Bacon wage as compared with the lower wage in the private sector locally. Substantial savings will result from the enactment of these reforms. The Department of Defense has estimated that over \$150 million a year can be

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saved. Additionally, both CBO and GAO have long advocated reform of Davis-Bacon along these lines. Once again, NFIB's members urge you to oppose the Kennedy amendment to strike the Davis-Bacon reform provisions. Your vote on this issue will be used as a key small business vote in the 99th Congress.

There was question about the administration's support or opposition. We are not debating labor law here. We are debating authorization for defense. We are debating economics in spending the taxpayers' money. We are not debating how we are going to set about relationships between management and labor.

I have a letter here from the Deputy Secretary of Defense, William H. Taft IV. I would like to read a portion of that letter.

I agree with your estimated savings of \$300 million for total repeal based on the Fiscal Year 1986 budget originally submitted by the President. The latest provision, however, only exempts DOD contracts less than \$1 million from the Davis-Bacon Act. We estimate this provision would save about \$150 million annually.

Now, Mr. President, I could go into great length in documenting what the Davis-Bacon provision set out to do and what it has in fact produced, but that is not the key issue here. The key issue is, are we going to allow a well-defined special-interest group that supports the preservation of existing law, a law that is out of touch with the economic reality of the 1980's, to stand and cost the taxpayers money, more money than all the toilet seats, all the crescent wrenches, all the cathode ray tubes ever bought by the Pentagon in the history of the Republic?

We are going to, on the Kennedy amendment, cast one vote that can save the taxpayer more money than all the rip-offs that we have all stood up in front of the television cameras and cursed and damned and belittled. On this one vote, by simply allowing small contractors to get a chance to compete, by simply codifying regulations that make eminently good sense, by simply looking at the labor market as it exists, we can save \$150 million a year.

The question here is the public interest of \$150 million a year in defense savings versus the special interests. That is the question to be decided here. I hope my colleagues will stay with the committee, implement these reforms that are needed, allow small business to enter into defense construction, promote competition, promote jobs, and allow us to run the Pentagon as a business.

What kind of story would it make? Where do you think it would run in the Washington Post if it were uncovered tomorrow that there was a ripoff of the taxpayer occurring because the Pentagon was paying noncompetitive wages and it was costing us \$300 million a year? It would run on the front page. That is not happening.

Congress has imposed this inefficiency for a bill that was passed with good

intentions 54 years ago. The time has come in this important area with the crises we face, with the Soviet threat and a deficit threat, to change this provision of law. This, Mr. President, is not a repeal. It is a compromise provision.

I urge my colleagues to judge it not on the basis of partisanship but on the merits of the situation. Look at the merits of the debate, look at the \$150 million a year, look at how reasonable the proposal is, and make your decision on that basis.

Mr. NUNN. Mr. President, will the Senator yield for a couple of factual clarifications?

Mr. GRAMM. I am happy to yield.

Mr. NUNN. I am trying to listen to both sides of this debate. I think it is an important question.

It is my understanding that the Senator from Texas, on the \$1 million threshold, moving from \$2,000 to \$1 million in terms of exempting the contractor from the provision of Davis-Bacon, the Senator from Texas, I believe, he said, and I may not be precise on this—is 40 to 45 percent of the DOD contracts, the number of contracts that would be exempt?

Mr. GRAMM. If the Senator will yield back, in terms of the dollar amount, about 40 percent of the contracts would be exempt. In terms of the number of pieces of paper, obviously there are many small contracts, a smaller number of large contracts, and we are talking about in the 90-percent range. But we are talking about here opening up about 40 percent of all contracts for construction that are a million dollars or less.

I remind our distinguished ranking member that a million dollar contract in 1931 was a big contract. Today it is quite small. By the time you get subcontractors, by the time you pay for material, you are talking about a job that there are literally thousands of small independent contractors who could undertake this, but because they face the dilemma of having to keep a different set of books to pay Davis-Bacon wages, have their laborers being paid the market wage on one job and this artificial wage on another job, they are effectively precluded from being involved. That is why the National Federation of Independent Business opposes this amendment.

Mr. NUNN. I think that clarifies my question, because the Senator is talking about 90 to 95 percent of the number of contracts, but about 40 percent of the dollars involved in those contracts.

Mr. GRAMM. That is correct.

Mr. NUNN. I believe that reconciles with the Dear Colleague letter put out by Senators KENNEDY and PACKWOOD. I have one other question along that line. I believe the Senator from Texas said his amendment incorporates existing regulations.

Mr. GRAMM. If I might clarify that. It incorporates existing regula-

tions as modified by court decision. Let me explain that very briefly.

Let me explain that very briefly. The regulations proposed by the Department of Labor injected the use of helpers which is a common practice in many areas of the country in construction. It used the language related to helpers as an identifiable practice. The Court struck that down saying that the provisions of Davis-Bacon dealt with not identifiability but with prevailing practice.

So what I have done is amend the sections of the bill related to the prevailing practice to allow helpers where that is a prevailing practice to be counted in the determination of wages so that we are not paying helpers journeymen's wage because of Government mandating a wage that is out of touch with reality.

So it is the regulations at the Labor Department, after the court ruling, which will be forced to make the modification, and the court suggested that modification.

Mr. NUNN. If I understand the Senator correctly, then it is a regulation that is in the works, and not one that is final.

Mr. GRAMM. That is correct.

Mr. NUNN. It is not a final regulation.

Mr. GRAMM. That is correct.

Mr. NUNN. I thank the Senator.

Mr. NICKLES. Will the Senator yield?

Mr. GRAMM. I yield 4 minutes to the Senator from Oklahoma.

Mr. NICKLES. Mr. President, I commend my good friend, the Senator from Texas, and I urge opposition to the amendment of my friend, Senator KENNEDY. Mr. President, I think it is awfully important that we save some money in the Department of Defense. Everyone I know says that the Defense Department wastes some money. This is one excellent example of how we are wasting something like \$150 million a year. We can save money in defense, and this is one area I hope we will do it.

Mr. President, I support the Armed Services Committee language reforming the Davis-Bacon requirements for military construction projects. The Gramm amendment is identical to a reform proposal (S. 1005) that I introduced along with Senators EAST, HAWKINS, HUMPHREY, LAXALT, THURMOND, DENTON, GRAMM, GOLDWATER, QUAYLE, and MATTINGLY earlier this year, but this particular amendment only applies to DOD procurement. It is not governmentwide reform. Senator GRAMM's language codifies the three essentials of the administration's regulatory changes, and increases the current statutory threshold from \$2,000 to \$1 million.

The three basic reforms in the Gramm amendment are long overdue. Even President Carter's study group recommended most of these changes. It should be stressed that these

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Reagan reforms have been upheld by the courts as truly reflective of the original premise behind the Davis-Bacon Act: that the Federal Government should indeed be paying the prevailing wages on Federal construction projects. Unfortunately in the past 20 years the Davis-Bacon Act has become grossly inflationary as the required wage rates frequently have been out of line with the true rates in many areas.

I would like to discuss each of the reforms separately and state for the record the comments advanced by the U.S. Court of Appeals for the District of Columbia on each reform.

First, as to the new definition of a prevailing rate, that is, a majority rate—50 percent rule—the appellate court held that the new definition of prevailing, or absent an identifiable 50 percent, a weighted average is within a common and reasonable reading of the term. The courts then upheld the new definition of a prevailing rate. The Gramm amendment simply codifies this new definition.

Second, the Gramm amendment bars the DOL from importing urban wage data and rates into rural areas. Perhaps more than any other change, this ban on importing wage rates from large cities hundreds of miles into rural counties will reduce the number of fictitious wage determinations issued by the DOL. The court held this new regulation rational and furthers the purposes of the statute. Again the Gramm amendment simply codifies the administration's regulatory change.

Third, the Gramm amendment would require the Secretary of Labor to recognize helper classifications if they prevail in an area and issue wage determinations accordingly. The appellate court upheld the Secretary's right to add helpers under the present law, but did send the regulation back to the drawing board to resolve exactly under what circumstances helpers must be recognized. Accordingly, the appellate court held the new regulation, as modified by the requirement that the classification prevail in an area before it may be used, is an entirely logical response to the problem of Federal construction practice not reflecting the widespread, but not universal, practice of using helpers. Again, Senator GRAMM's amendment simply codifies what the courts have held to be in keeping with the purposes of the original act.

Finally the Gramm amendment makes one Davis-Bacon change that the Secretary of Labor may not do through regulation: an increased threshold. By increasing the threshold from \$2,000 to \$1 million, thousands of small contracts will be freed of Government mandated wage determinations. This is essentially a deregulatory move and will result in an increased number of bidders on these Federal jobs. Opponents will argue that fly-by-night contractors will thus bid and receive Government work and likely per-

form in a shoddy manner. This ignores basic Federal construction-contractor qualification requirements. In order to bid, contractors must post a bond. Contractors incapable of performing the work—for example inexperienced or with poor labor relations practices—are unable to acquire the necessary bonding and will be ineligible to bid. Opponents of reform conveniently overlook these requirements.

These four changes will save, according to CBO estimates supplied to me this week, some \$245 million in outlays and \$415 million in budget authority in fiscal year 1986 through fiscal year 1988. This money could be better spent by the Armed Services Committee and the Congress as we look for all necessary savings in the Defense budget.

There is one final point I would like to make to my colleagues. If the Senate accepts the Gramm amendment—codification of the administration's court approved regulations—then we can finally dispense with Davis-Bacon as an issue. Codification will result in prevailing wage calculations that are truly reflective of area rates. There will be no more applying Philadelphia wage rates into rural New Jersey; no more applying Oklahoma City wage rates 10 counties away; and no more setting wage rates based on a minority proportion of a classification obtained in a wage survey. By accepting the Gramm amendment now, and subsequently codifying these changes as they apply to other types of Federal construction the Senate can finally reform the Davis-Bacon Act, save millions of tax dollars, and put this issue behind us once and for all.

Mr. President, I ask unanimous consent to have printed in the Record the CBO numbers on DOD authorization as it relates to Davis-Bacon savings.

There being no objection, the table was ordered to be printed in the Record, as follows:

DOD AUTHORIZATION—DAVIS-BACON SAVINGS (CBO 'NUMBERS)				
(In millions of dollars)				
	1986	1987	1988	3 yr. total
A. Gramm amendment (codification plus \$1,000,000 threshold): <sup>1</sup>				
Budget authority	-135	-140	-140	-415
Outlays	-45	-85	-115	-245
B. \$1,000,000 threshold alone:				
Budget authority	-75	-80	-80	-235
Outlays	-25	-50	-65	-140
C. \$1,000,000 threshold—percent of DOD construction contracts:				
above \$1,000,000, 10 percent				
below \$1,000,000, 90 percent				
Percent of DOD construction dollars: above \$1,000,000, 160 percent, below \$1,000,000, 40 percent				
<sup>1</sup> The dollar difference between A & B is essentially all based on the helper provision.				
	1986	1987	1988	3 yr. total
The numbers are:				
Budget authority	-50	-60	-160	-180
Outlays	-20	-35	-50	-105

Mr. NICKLES. In reference to my good friend, the Senator from Geor-

gia, when he is talking about helper classification, and what that means, the Secretary of Labor came out, and made this change in Davis-Bacon dealing with helpers—that they wanted to allow people to be helpers. In other words, they wanted nonskilled workers to be paid those wages, and not be mandated to pay journeymen's wages. And in many cases, it totally prohibits minority workers, and those on the lowest end of the economic scale, from participating in any Government work.

There are a lot of changes that need to be made. They should be made. The Senator from Texas compromised. He did not repeal Davis-Bacon for all of the Department of Defense contracts. He came up with a compromise, and said, well, let us reform prevailing wage. It is sort of saying that we will use the 50-percent factor instead of the 30-percent factor. So it will actually be closer to a real prevailing wage. The Senator would say in those areas of predominantly helper classification that they can use it. They would not be prohibited from it. The Senator said in those rural areas that have cheaper wages we would use those rural areas instead of importing high urban wage rates.

Then the Senator also said, "Let us increase the threshold from \$2,000 up to \$1 million." Presently the Department of Labor—if anybody does a construction project, whether it is the Department of Defense or elsewhere—deals with Federal Government construction, and the Department of Labor comes in and mandates what those labor rates would be. That makes no sense whatsoever. That is really saying that an employer and employee do not know what they should be paying the employee. It means that the Department of Labor should come in and mandate what they believe that rate should be. It makes no sense.

The sum of \$1 million is not that large a construction project. Again, I hope that Congress will use the commonsense that this proposal provides. I hope we can have the courage and the conviction to say yes, we are going to cut spending, and this is one area. We can actually create jobs by passing the Gramm amendment and defeating the Kennedy amendment. We can create more jobs because you can get more military construction for the same amount of dollars. That is more jobs.

I hope Congress will have the commonsense to adopt it. I again compliment my good friend, the Senator from Texas.

Mr. KENNEDY addressed the Chair. The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 18 minutes left.

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Mr. KENNEDY. Mr. President, I yield myself 5 minutes.

Mr. President, I would like to place in the RECORD the material provided by the Department of Labor by CBO on their estimated savings by this particular amendment.

In spite of the eloquence of the Senator from Texas, the Senator is just plain wrong. The CBO estimate on budget outlays is \$47 million by 1987.

Mr. President, I ask unanimous consent that it be made a part of the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 3.—AUTHORIZATIONS IN FUNCTION 050 IN THE NATIONAL DEFENSE AUTHORIZATION ACT, 1986 AS REPORTED BY THE SENATE ARMED SERVICES COMMITTEE

(By fiscal year, in millions of dollars)

Category	1986	1987	1988	1989	1990
Endstrengths:					
Estimated authorization level	71,013				
Estimated outlays	68,838	2,175			
Housing allowances:					
Estimated authorization level	-14	8	23	31	37
Estimated outlays	117	7	22	31	37
Travel allowances:					
Estimated authorization level	664	674	681	688	693
Estimated outlays	643	674	681	687	693
Reserve bonuses:					
Estimated authorization level	80	94	35	28	17
Estimated outlays	77	93	36	28	17
Stockpile acquisitions: Estimated outlays	-230	140	90		
Davis-Bacon repeal:					
Estimated authorization level	-140	-140	-150	-155	
Estimated outlays	-47	-86	-119	-135	
Overtime pay restrictions:					
Estimated authorization level	-555	-575	-600	-625	-650
Estimated outlays	-65	-270	-480	-550	-595
Other OSD:					
Estimated authorization level	78	92	93	93	92
Estimated outlays	73	94	93	93	92
Function 050 total:					
Estimated authorization/budget authority	71,266	153	91	64	34
Estimated outlays	69,453	2,867	357	170	109

Note.—Totals may not add due to rounding.

Mr. KENNEDY. Mr. President, these figures are not dreamed up to be bandied about like the \$7 billion figure the Senator from Texas just cited. This CBO estimate says \$47 million in 1987, and I think the methodology used to reach that figure is open to question.

Mr. President, the Senator from Texas talks as if the Department of Labor does not belong to this administration. It is an arm of this administration. They have the opportunity to promulgate regulations. If they want to promulgate regulations, why not let them promulgate regulations? The fact of the matter is that the studies that are done—even by the Department of Labor, and by CBO which projects a \$47 million savings assumes that reductions of wage rates imply equal reductions in project costs. It assumes, therefore, that wage rates are uncorrelated with productivity. That is interesting—not related to productivity, uncorrelated with productivity. The fact of the matter is productivity is important, and it is as important in terms of our national security as any other issue. If you want to cut locally prevailing wage rates on military con-

struction, you stay with the Gramm amendment.

You will then find that school is out with regard to the defense contracts. You will find school is out on the military construction projects to house these servicemen and women of this country.

All we are saying in this amendment is that we don't want to pay more than the prevailing wage, but we are not going to pay less than the prevailing wage either. We want contractors to compete on efficiency, on quality, and on price. But on wages we don't want the Federal Government to depress locally prevailing wage practices. It is quite interesting to hear about saving money on defense when the Senator well knows that the IG has found another \$1.8 billion, and just 3 weeks ago, they found another \$4.7 billion on the day of the markup in the Armed Services Committee.

So, Mr. President, I think that if we are truly interested in ensuring quality construction—that is all we are talking about, military construction—for the military personnel of this country, then the men and women that are going to build that military construction are going to get the same wages that are going to go on in that local community.

The argument of the Senator from Texas, is that if we seek the most standard wages possible, we are going to save money. That is hogwash. Everyone in this body knows that we will get cost overruns as those contractors come back to the Department of Defense and say: "We know we came in too low. You aren't going to have that hospital completed unless we add another \$5-\$10 million to that contract."

We have seen this time in and time but in this body. The amendment of the Senator from Texas is just inviting us to start down on that road with regard to military construction. So, Mr. President, I would hope that this amendment would be accepted.

Several Senators addressed the Chair.

Mr. KENNEDY. I reserve the remainder of my time. How much time have I remaining?

The PRESIDING OFFICER (Mr. NICKLES). The Senator from Massachusetts has 14 minutes remaining.

Mr. JOHNSTON. Will the Senator from Massachusetts yield for a couple of questions?

Mr. KENNEDY. Certainly.

Mr. JOHNSTON. As I understand it, there have been no hearings held on this. I understand that the data base for determining what the savings would be under the new regulations are completely nonexistent because the regulations have been changed from the old law where if you could not find a majority of workers which had a particular prevailing wage, under the old rule you went to that where you could identify 30 percent which had a particular prevailing wage. Under the new rules, if you

cannot find a majority who have a particular prevailing wage, then you go to a weighted average of those workers.

Since we do not know what those weighted averages will be under the new regulations, how in the world can we determine what the savings would be? That concerns me. I really wanted to ask the question of the Senator from Texas but maybe the Senator from Massachusetts wishes to answer.

Mr. KENNEDY. I think the Senator is exactly right. The difficulty in making that estimate has been documented by the Department of Labor, the CBO, and various studies on this question. I think the whole question is how do you factor in productivity, in terms of the skills of the workers.

I think it is fair to say that the savings have never been justified, and certainly do not warrant the statements made by the supporters of this amendment.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Let me begin with reference to the question of the Senator from Louisiana on procedure. Under the old procedure, there was the ability to find 30 percent of the workers who had that wage. Under the new procedure, it is based on 50 percent.

Under the old procedure, if you could not find 30 percent, you went to the highest 50 percent, and then if you could not find that, you went to an average. Under this, we go to the average. So in terms of makeup, scope, study, there is no change.

I am afraid the American people would have to laugh at the assertion of the Senator from Massachusetts that somehow the paying of artificially high wages on Government construction produces quality, whereas the payment of market wages in the private sector produces junk.

I assert there is no study, there never has been a study, that could substantiate that.

The quality of private construction on for-profit business is uniformly better than the Federal Government. In fact, our papers are full every day of poor workmanship and junk being bought at the taxpayers' expense. Paying artificially high wages, paying helpers, journeymen, and contractor wages, does not in itself produce quality. Squandering the taxpayers' money is not and has never been the path to quality in construction or anything else.

I yield 2 minutes to the Senator from Idaho.

Mr. SYMMS. I thank the Senator for yielding.

Mr. President, I want to begin by complimenting my colleague and friend from Texas, Senator GRAMM, for working so hard to see that this package of labor and procurement reforms was included in this year's defense authorization bill. I also want to

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compliment the distinguished chairman for the Armed Services Committee, Senator GOLDWATER, for the determination and leadership with which he has guided this bill through his committee and brought it to the floor in its present form. Without doubt, enactment of the contract and employment provisions in this legislation would be a strong, positive step forward in our effort to reduce the waste and unnecessary expenses often associated with procurement procedures and construction projects of the Department of Defense.

Mr. President, the Davis-Bacon reforms included in this legislation would codify current Labor Department regulations pertaining to certain provisions of the Davis-Bacon Act. These reforms would:

First, establish a definition of prevailing wage rates based on identifying a majority—50 percent—of a job classification paid the identical rate. If such a majority cannot be identified, a weighted average would be used to establish the prevailing rate.

Second, ban the use of urban wage data to determine the prevailing wage in rural areas and vice versa.

Third, require the Department of Labor to recognize helper classifications in areas where they are a prevailing practice.

Fourth, increase the threshold application of Davis-Bacon from \$2,000 to \$1 million.

All of these reforms, with the exception of the increased threshold, have been implemented administratively by the Secretary of Labor. Moreover, these Labor Department regulations have been upheld in a 1983 decision of the U.S. Court of Appeals for the District of Columbia as well as a 1984 decision of the U.S. Supreme Court which affirmed the lower court ruling. In its 1983 ruling, the court of appeals declared that all but two of the new regulations promulgated by the Secretary of Labor were consistent with the letter and intent of the Davis-Bacon Act. The two regulations struck down by the court are not included in the provisions of this bill.

The Davis-Bacon reforms included in this bill are not only highly desirable but they are essential if we are to bring military construction costs into some reasonable conformity with the cost of similar construction projects in the private sector. Recently, we have heard and read a great deal of discussion about toilet seats, hammers, nuts, bolts, and other goods charged to the Defense Department at exorbitant prices. On the Senate floor, a number of my colleagues have contributed to this debate by expressing their shock and outrage at the overpricing unveiled by Defense Department auditors. The legislation before us today gives all of us who are concerned about unjustified and unreasonable DOD expenditures a chance to approve reforms that will dramatically reduce waste and unnecessary ex-

penses in DOD procurement and construction costs. I urge all of my colleagues to give careful consideration to the tremendous savings associated with the labor and procurement provisions of this bill.

The first of these reforms eliminates the 30-percent rule under which the prevailing wage could be determined by finding any wage paid to at least 30 percent of the workers in an area. Reliance upon the 30-percent rule has given undue weight to collectively bargained rates, thereby inflating the rates DOL must use to determine the prevailing wage.

I believe it is eminently reasonable and fair for Congress to amend the Davis-Bacon Act to provide a more realistic accounting of the prevailing wage in an area. If the Secretary of Labor is unable to identify a single wage paid to a majority of a job classification, then the prevailing wage should be determined on the basis of a weighted average of all wages paid in that job classification. In its ruling on this matter, the court of appeals declared, "The Secretary's new definition of 'prevailing' as, first, the majority rate, and, second, a weighted average, is within a common and reasonable reading of the term." The court based its judgment on the legislative history established by supporters of the Davis-Bacon Act and the 1932 amendments to the act.

Since it is the purpose of the Davis-Bacon Act to ensure that wages on Federal construction projects comport those paid on other construction projects in the area, it makes good sense to exclude the use of urban wage data and rates when determining the prevailing wage in rural areas. The language of the act, as adopted in the 1930's, instructs the Secretary to determine the prevailing wage for laborers and mechanics employed on projects of a character similar to the contract work in the city, town, village, or other civil subdivision of the State in which the work is to be performed. Clearly, legislation prohibiting the use of urban wage data in rural areas or vice versa is in accord with both the language and purpose of the act.

In defending this change in DOL regulations, the Secretary said that the disparity between urban and rural wages was such that no reliable prevailing wage determination could be made based on the combination of both urban and rural wage data. Union officials have argued that higher urban wages are justified in nearby rural areas because it is urban workers who often do the work. The obvious rejoinder made by the administration is that if urban workers generally are performing construction work in rural areas, the wage scales for those rural areas will reflect that fact. "All of this makes sense," the court of appeals said, "and the new regulation has not been shown to undermine the central purpose of the statute, which

is to ensure that Federal contractors pay the wages prevailing in the locality of the project." I believe anyone employing a little commonsense would agree with the judgment of the court on this matter.

Finally, I believe it is reasonable and fair for Congress to require the DOL to recognize helper classifications in areas where they are a prevailing practice. In its 1983 decision, the court of appeals struck down one of the new DOL regulations which provided that a helper classification need only be "identifiable" in an area. The court ruled that this provision would "operate to undermine the fundamental purpose of the act: That wages on Federal construction projects mirror those locally prevailing." The legislation before us today furthers the fundamental purpose of the act by requiring that DOL recognize job classifications (including the helper classification) when they are a prevailing practice in an area. I believe these provisions deserve the strong, bipartisan support of the Senate.

Mr. President, I want to reiterate my gratitude to Senator GRAMM and Senator GOLDWATER for working so hard to incorporate these Davis-Bacon reforms in this defense authorization package. I will ask unanimous consent that two letters supporting these reforms be inserted in the RECORD following my remarks.

The first letter, from the National Federation of Independent Business, declares the strong support of NFIB members for the Davis-Bacon, Walsh-Healey, and contracting out provisions in this bill. NFIB, the largest association of small and independent business in the Nation, polls its members to establish policy positions for the association. Based on such a poll, the association has determined that the labor and procurement reforms in this bill are so important that the vote on these reforms will be used as a "Key Small Business" vote in the 99th Congress. I fully concur with judgment of the Nation's small business men and women regarding the importance of our decision on this matter.

The second letter, from the U.S. Chamber of Commerce, announces the full support of the chamber for reform of the Davis-Bacon and Walsh-Healey Acts as provided in this bill. The chamber notes that "these Federal contract laws artificially inflate wage rates for Government contractors and reduce competitive bidding, both of which significantly increase Government costs in general and military costs in particular."

I appreciate the receipt of both letters, and I am pleased to share them with my colleagues today.

I ask unanimous consent that the two letters to which I earlier referred be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

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## CONGRESSIONAL RECORD — SENATE

S 7321

CHAMBER OF COMMERCE  
OF THE UNITED STATES,  
Washington, DC, May 17, 1985.

Hon. STEVEN D. SYMMS,  
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: The U.S. Chamber of Commerce respectfully requests that you consider our comments concerning Title VII of the Fiscal Year 1986 Defense Authorization Bill (S. 1029).

First, the Chamber strongly supports section 721, which removes restrictions on the Department of Defense's (DOD) ability to contract out activities to the private sector. This provision is extremely important for the following reasons:

1. It gives the Secretary of Defense specific authority and responsibility to contract out when it is cost efficient and consistent with national security.

2. It improves DOD's ability to save money. DOD now estimates that contracting out has saved over \$400 million per year, despite current limitations.

3. It enhances DOD's flexibility and responsiveness, by allowing greater use of the private sector's ability to increase or reduce activities without cumbersome civil service and personnel requirements.

Further, the Chamber fully supports reform of the Davis-Bacon and Walsh-Healey Acts as provided by the bill's competitive labor purchase requirements (sections 711, 712 and 713). These sections provide for substantial cost savings on military contracts for construction covered by the Davis-Bacon Act and goods covered by the Walsh-Healey Act. These federal contract laws artificially inflate wage rates for government contractors and reduce competitive bidding, both of which significantly increase government costs in general and military costs in particular.

Both laws also disadvantage the employers by significantly and inappropriately increasing labor costs. The Davis-Bacon and Walsh-Healey Acts force federal contractors to adopt premium wage and/or overtime rates which can create major economic and administrative burdens and can be disruptive of personnel practices.

Finally, the Chamber has some concerns regarding section 702, which deals with the allowability of contractor "general and administrative costs." While we commend Senator Gramm for attempting to resolve the perceived problems in a reasonable and careful manner, the Chamber questions the need for such specific guidelines in legislation. We are not opposed to what we understand to be the Senate's major concerns in this area and are in agreement with the objectives of the legislation. However, we believe that this type of specificity is more appropriate for the regulatory process.

We appreciate this opportunity to comment, and we ask that you carefully consider our views.

Sincerely,

ALBERT D. BOURLAND.

#### S. 1029, DOD AUTHORIZATION BILL

DEAR SENATOR: During debate on the DOD Authorization bill an attempt may be made to strike the Committee's language on Davis-Bacon, Walsh-Healey, and/or "contracting out." The National Federation of Independent Business (NFIB) urges you to oppose all such efforts.

The Davis-Bacon act should have been updated years ago. By codifying current Department of Labor regulations and increasing the threshold of application for DOD contracts the Senate will have gone a long way in that direction. Conforming Walsh-Healey to the Fair Labor Standards Act is a matter of equity: if civil servants and pri-

vate employees can work under flextime schedules why not employees working for federal contractors? And it has been demonstrated over and over again that contracting out is a very cost effective way to provide goods and services for the government. Leaving all three of these provisions in the bill will save hundreds of millions of dollars for the taxpayers.

NFIB's members urge you to support these changes in DOD contracting. Your votes on these issues will be used as "Key Small Business" votes in the 99th Congress.

JOHN J. MOTLEY III.

Director of Federal Legislation.

Mr. SYMMS. Talk about hogwash—the Senator from Massachusetts was making reference to hogwash. I have never heard an argument based on more hogwash than saying that the wages you pay has anything to do with the quality of the work on housing or hospitals for military families. Those buildings will be built according to specifications and the wage rate has nothing to do with it.

As a matter of fact, even though I compliment the Senator from Arizona and the Senator from Texas for including this provision, the very fact that the Department of Labor has to find a wage rate paid to 50 percent of the construction workers in an area strikes me as a travesty. It is an even greater travesty when they take the 30-percent mark because they remove many skilled workers who might be available to do those jobs and who may produce better workmanship rather than more shoddy workmanship.

I think that the Davis-Bacon provisions ought to be kept in this bill as the Senators from Texas and Arizona have recommended. We have heard a lot of railing about toilet seats, hammers, nuts and bolts, and all kinds of things that the Defense Department is paying an exorbitant price for. A lot of my colleagues here have made those arguments very eloquently on this floor. But I believe we now have an opportunity to save the taxpayers a very significant amount of money.

I would say to my colleagues that we have an opportunity to save the taxpayers some money and get more out of our defense dollar—more houses, better health facilities, better everything for the military families of this country. I urge my colleagues to vote down this amendment, and I compliment the Senator from Texas for his work on this issue. I yield the floor.

Several Senators addressed the Chair.

THE PRESIDING OFFICER. The Senator from Montana.

Mr. KENNEDY. Mr. President, how much time remains?

THE PRESIDING OFFICER. The Senator has 8 minutes remaining.

Mr. KENNEDY. I yield 4 minutes to the Senator from Montana.

(Mr. ARMSTRONG assumed the chair.)

Mr. MELCHER. Mr. President, the purpose of Davis-Bacon as of the 1930's when it was enacted was to pro-

tect against the fly-by-night operators getting a Federal contract, a Government contract, by bidding low on a contract and by paying very low wages to workers brought in from outside the community or State. The purpose of the act is to preserve the prevailing wage of workers in a specific area based on a community and its immediate surrounding area. That is meritorious.

There are parts of Davis-Bacon that are wrong now, that do not protect using the prevailing wages. That problem should be addressed in a procedure using the law. Those should be thoughtfully corrected by action on all Federal construction contracts, not just on military contracts.

The Reagan regulations just issued and now being implemented and first used seem to move in that direction. If there is something wrong with that, we can look at it on the basis of all Federal contracts.

Once again, Congress is confronted with an attempt to remove Davis-Bacon protection from military construction projects? In the name of cost saving, this bill would guarantee nothing but shoddy construction performed by unskilled workers in an area of the country where the Nation can least afford it, our national defense system. Congress has repeatedly rejected attempts to eliminate Davis-Bacon from military construction in recent years, once in 1979 and again in 1980.

To quote from the committee report of 1979, the Labor Committee report, after consideration of Davis-Bacon, they concluded by saying:

The removal of the Davis-Bacon Act prevailing wage requirement could have the long-term effect of undermining the skilled labor base on which the military installations rely.

We rejected it in 1979 and again in 1981. The vast majority of construction firms are responsible and reliable but there is a significant minority that are not reliable or scrupulous. Without Davis-Bacon, contractors would seek to win bids by undercutting the standards of the local community.

With the law, they must pay whatever wage prevails in the community whether that is a nonunion, union, or mix of the union and nonunion wage. The law does not and never has required the payment of the union wage. With the Davis-Bacon Act, reputable contractors are given a fair chance to compete for Government projects, instead of losing the work to competitors who underbid them by paying substandard wages which only attract unskilled workers.

As the Senate Labor Committee found in 1979, with a prevailing wage floor, contractors are allowed to compete for public projects on the basis of their skills and efficiency rather than on the basis of low wages they pay. As we know, Federal construction, including military construction, involves far

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more than single family residences. Rather, it involves building harbors, dams, sewage treatment plants, missile silos, superhighways, office buildings, and other sophisticated structures. This type of construction obviously requires sound contractors who employ highly skilled and experienced craft workers.

Those arguing that Davis-Bacon is inflationary and costly assume that paying anything more than the lowest possible wage leads to excess costs. This reasoning is misleading in that it ignores the important issue of the relative productivity of high wage and low wage workers. Slashing wages below the locally prevailing level may lead to no savings at all, since the likely result would be the employment of less skilled, less productive workers who will take a longer time to finish the job and do poorer quality work.

Most recently in 1982, the Congress acted to ensure that Davis-Bacon would apply to the rebuilding of our Federal Interstate Highway System when it enacted the Federal Aid-Highway Improvement Act of 1982, recognizing once again that highway construction—like that of military construction—requires quality skills and quality workers. We should recognize again today, as we have so frequently in the past, that this law has served the Government, workers, their communities, contractors, and the taxpayers well for 50 years. We should not abandon its many benefits today on an area as vital to the Nation's military construction.

The PRESIDING OFFICER (Mr. ARMSTRONG). The time of the Senator has expired.

Mr. GRAMM. Mr. President, I yield 4 minutes to the distinguished chairman of the Military Construction Subcommittee.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise in support of Senator GRAMM's modifications to the Davis Bacon Act, and oppose the Kennedy amendment.

In the past, I have spoken many times on this floor recommending the repeal of the Davis Bacon Act. It has cost us billions of dollars in additional costs over the years for federally financed construction. Nowhere is this burden felt more heavily than on military construction. While Senator GRAMM's provision does not repeal the Davis Bacon Act for military construction, it does allow significant modification that will allow us to realize \$150 million in savings for fiscal year 1986 alone.

The principal provisions have been discussed, but let me just highlight a few.

The Gramm provision will waive Davis Bacon for construction contracts up to \$1 million. Previously, the threshold was only \$2,000. I cannot begin to tell you what a tremendous administrative burden existing law

places on both the Government and the contractor for these relatively small contracts. In fact, it is estimated that more than 10,000 projects within the military construction budget fall in this category.

This provision also codifies the Department of Labor reforms which have been sustained by the U.S. Court of Appeals. Under this formula, the prevailing wage would be the single wage paid to at least 50 percent of the laborers and mechanics, rather than the previous formula of 30 percent.

It will also prohibit importing urban computed wages into a local rural area where a prevailing wage does not exist. While it is true that the courts have acted in this area, it will leave no doubt as to the implementation of the Department of Labor reforms.

Finally, it will clear up when a "helper" wage can be paid, by specifying that such a wage is applicable when helpers are prevailing in the geographic area. This alone will save substantial money.

I believe that this well thought-out provision will be of great benefit in allowing us to get a fair and competitive wage for our construction projects, not an artificially inflated wage.

Mr. President, I urge my colleagues to oppose the Kennedy amendment.

In closing, I want to commend the distinguished and able Senator from Texas [Mr. GRAMM] for his fine leadership in this important matter and also commend the able chairman of the Armed Services Committee [Mr. GOLDWATER] for approving this amendment and supporting it so strongly.

The PRESIDING OFFICER. Who yields time?

The Senator from Massachusetts has 4 minutes remaining. The Senator from Texas has 6 minutes remaining.

Mr. KENNEDY. Mr. President, just a final few comments. The point that I am making in requesting the Senate to strike the Gramm amendment is the "commonsense" position with regard to the issue of wages and small businesses. If we do not accept the amendment we are asking contractors to compete on who can pay the lowest wages rather than who can provide the best quality work in the most efficient manner.

The military construction work we are talking about is vital to our security interests, and we should not be taking chances with nonperformance. We are talking about building radar sites, we are talking about building submarine facilities, we are talking about runways for our jets. We want to make sure that we are going to get timely and quality performance on these jobs. Without the amendment of the Senator from Massachusetts, we will be saying, You have one standard for EPA, you have one standard for HUD—because they are still going to be under the prevailing wage law—and another standard for military construction. I submit that doesn't make any sense.

Where in the world, Mr. President, do we think the most highly skilled workers are going to go? They are going to go to those jobs where there is protection of prevailing wages. They will avoid military construction projects that are vital to our national security.

I say, Mr. President, that the unwisdom in terms of our security interests with regard to the kinds of ways, military bases, radar sites, marine pens, and the other kind of important matters of security seems to me to be unwise.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. NICKLES). The Senator from Texas.

Mr. GRAMM. Mr. President, I yield 3 minutes to the distinguished Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I am grateful to the Senator from Texas for yielding to me and I really congratulate him for the leadership he has shown in this matter. I support the amendment.

Mr. President, it is my opinion that the vote we are going to have is going to be one of the most revealing votes we will have in the Senate because not only of what it will say about our seriousness in reducing the budget deficit but what it will say about the views of Senators. The underlying reality is there is more than just national defense, more than just the budget, at stake here. In every economy, somebody is going to decide the price of every transaction. The question here is going to be whether we are going to have the free market decide these prices or the Government decide that job.

For about the first 150 years in this country, we had the principle in this land that the free market, the natural interaction of supply and demand for goods and services, including the price of labor, would be determined. About 50 years ago, we began to experiment with Government regimentation of prices, commodities, tariffs, and kinds of economic regulation. At every step of the way, people who believe in the free market fought that, and they lost battle after battle. Gradually we found this country's economy in an economic straitjacket. It is not a wonder that you could not hire anybody, you could not fire anybody, you could not give anybody a pay cut, you could not build anything or tear anything down or start a business, or go out of business, or move a business, or make any kind of economic decision without consulting somebody in the Federal Government to get their approval of your decision.

About 10 years ago, the tide began to turn. Partly under the direction of the Senator from Massachusetts, it began to emerge a deregulation effort undertaken by the Senator from Texas is part of that, to restore economic decisionmaking in the private

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sector, and not just because it is more efficient. I do not see how anybody could really argue that it is not more efficient. The GAO has affirmed that; common experience, common sense affirm that.

But there is a deeper underlying principle. Are we going to stand here today, in the U.S. Senate, and take out of this bill the amendment which leads us not only in the direction of economic efficiency but also economic freedom? That is part of the underlying principle at work here.

The facts are clear. The General Accounting Office has said repeatedly—not just this month or just this year, but over and over—that we can save billions of dollars by repealing Davis-Bacon. I wish that is what we were voting on here today, and I judge that, sooner or later, that is what we will vote on.

As a moderate and a small first step in that constructive direction, we have the Gramm amendment, which is contained in the bill recommended to us by the Armed Services Committee. It would be a tragic mistake—indeed, a travesty—if we were to adopt the Kennedy amendment, the effect of which would be to kill this common sense reform.

Mr. CHAFEE. Mr. President, I am opposed to this amendment. The provisions dealing with the Davis-Bacon Act as reported from the Armed Services Committee are reasonable, and in my opinion necessary in these times of fiscal austerity and of emphasis on opportunity for small business.

We have spent the better part of the last 5 months beating up on the defense budget. Labor interests have been major participants in the debate supporting drastic cuts in the Defense budget. These reforms are right up that alley. To be sure, there is disagreement as to how much they will save, but the bottom line is that these reforms will reduce costs.

What is wrong with encouraging maximum competition in bidding for defense projects? It is contrary to the best economic policy to narrow the scope of competition, geographic or otherwise. The Federal Government should be combating this type of protectionism, not promoting it.

The reforms included in this legislation will open up the defense industry to small businesses. In recent years, I am convinced, the act has worked to the detriment of small businesses. The act gives unfair advantage to large union employers over small nonunion employers in bidding for government contracts. It tends to discourage the small contractors who have not normally paid union wages and all of the restrictions that come with the Davis-Bacon regulations including the onerous reporting requirements.

The Department of Labor regulations now require that Federal contractors and subcontractors submit a weekly copy of their payrolls, listing the name and address of each laborer

and mechanic and his or her classification, rate of pay, daily and weekly hours worked, deductions made and actual wages paid. They also require the payroll be accompanied by a statement indicating that the payroll is correct and complete, that the wage rates are not less than those determined by the Secretary, and that the classifications for each laborer and mechanic conform to the work done.

It is not hard to imagine that requirements like these are enough of a road block to small businesses to prevent them from bidding on Government contracts which require compliance with Davis-Bacon regulations.

The act might also adversely affect the entry of minority groups into the construction industry. These groups have fewer opportunities because frequently they find it easier to obtain employment in the nonunion sector of the industry, the sector which the act places at a disadvantage in bidding for Government contracts. While minority groups are special targets for jobs under Federal public works programs, such programs are frustrated to some extent by the act. As outlined previously minority groups are hurt in another way as well; they often enter construction work informally as helpers or trainees. Because the job structure in the act's wage determinations tends to follow union occupational classifications and seldom includes separate categories for helper or informal trainees, employers under Government contract must pay these individuals at the higher wage rates for skilled laborers or not hire them at all which is the more likely result.

The provision raising the threshold to \$1 million would exempt 95 percent of all DOD contracts; however, it would only affect 40 percent of the total dollars expended for DOD contracts. In other words the very large contracts will still be subject to the requirements of the act.

In short, the provisions included in this legislation are small but needed changes in existing law. These reforms are a step forward in encouraging competition, opening up Federal contracts to small businesses and reducing to some extent the costs of defense.

Mr. SPECTER. Mr. President, I support this amendment which would strike the language in the bill that weakens the Davis-Bacon Act.

The fundamental issue that is raised by any effort to weaken Davis-Bacon is whether we wish to encourage competition in the construction industry that is based on wage cutting. Our national policy, quite properly, is generally to encourage competition in the private sector. We have long since recognized in our labor laws, however, that we must avoid forms of competition which are unfair to working men and women.

The temptation to engage in wage cutting is particularly acute in the construction industry because of its very nature. Not only does the indus-

try consist of a vast number of companies, many of which are relatively small, but new entry into the field is relatively easy. Since the structures to be built and the materials to be used are commonly specified in detail by the buyer, competition tends to shift to labor costs and wages.

Mr. President, it is just common sense that, in this world, you get what you pay for. If we pay substandard wages to construction workers on Government-funded projects, it follows that we will get substandard work in return. It is worth paying a few extra dollars to attract highly skilled workers, who will provide the quality labor that the taxpayers deserve in return for their dollars on vital matters for national defense. It would be penny wise and pound foolish to attack the Davis-Bacon Act now, only to spend large amounts of tax dollars later on extra maintenance and repairs.

When one considers the benefits that flow from the Davis-Bacon Act, it soon becomes clear that this important law does not only protect workers. It also provides important benefits for business, because it promotes competition that is fair. With Davis-Bacon on the books, local builders have a fair chance to compete for Government contracts based on skill and efficiency, rather than losing work to competitors who underbid them solely by paying lower or substandard wages.

If we are to change Davis-Bacon, let us at least avoid doing so hastily or carelessly. Let there be hearings before the Labor Committee, with both business and labor enjoying opportunities to provide their testimony. Let there be careful committee markup and a detailed report to explain the action taken. Then, and only then, will this body be in a position to give this important topic the deliberate treatment it deserves.

Mr. GRAMM. Mr. President, I yield 1 minute to the distinguished chairman of the Armed Services Committee.

Mr. GOLDWATER. Mr. President, as chairman of the Armed Services Committee, I am happy to support this provision. This is long, long overdue.

The Davis-Bacon Act was written back in the early 1930's when there was an understandable need for it. Those of us who live in the remote parts of this country where labor unions are not available have watched military construction cost three, four, five, even eight or nine times as much as it would have cost had it been built near a large city.

This is not an antiunion movement. This is not an effort to get wages down. This is merely an effort to repeal part of a law—change the rules, really—that will allow the Defense Department to operate a little more cheaply than it operates today.

I should like to repeat what the Senator from Texas has emphasized: That

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In this day, when we are looking for ways to cut expenses, I cannot think of a better way to do it than to change the rules. That is all the Gramm amendment does—change the rules relative to the application of Davis-Bacon on military construction.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. KENNEDY. Mr. President, the fact is that the Gramm amendment will effectively repeal the Davis-Bacon Act on military construction. If the Senator from Texas was interested in reform, he could codify the regulations promulgated by this administration, a Republican administration, supported by the Department of Labor, and made effective by the court of appeals this January. We ought to review the effectiveness of those regulations as well as a number of issues that have been talked about here today, before we try to reach a legislative decision. That is the appropriate way to address this issue, not in the haphazard way we are proceeding here today.

I hope my amendment to strike that provision will be accepted.

Mr. GRAMM. Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. DANFORTH). The Senator has 2 minutes.

Mr. GRAMM. I yield myself the remainder of the time.

Mr. President, we are down to a final decision on an issue that has long been a controversial issue. I urge my colleagues, in making a final decision, to ask themselves what is in the public interest.

We have seen outrage from the American people about overcharges on defense. We see a feeling in the country that, while there is sensitivity to the fact that we face a growing Soviet threat, our money is not being well spent.

We tried in this bill, for the first time on a concerted basis, to address those problems—stiff penalties for contractors who overcharge and overbill. We took the extraordinary action of clearing the way for the closing of as many as 100 military bases. We allowed contracting out. We reformed ancient labor provisions that no longer fit under the name of the Maroni amendment and Walsh-Healey.

We are now down to one final issue. The issue has to do with whether or not, on small contracts, we are going to open competition and let the small, independent contractor have an opportunity to bid; whether or not we are going to look at 50 percent rather than 30 percent of the wages being paid to determine what the prevailing wage is.

This is a compromise. Logic and the interests of the people dictate a clear repeal of this provision in defense. But

in taking the spirit of compromise, we have come up with a proposal that reforms.

I urge my colleagues to be true to the principle that the American people have called upon us to present, and that is to get the maximum defense we can at the lowest price we can afford to pay. This is an opportunity to tell the American people that we are for real on the issue of economy in the defense operation of this country.

I urge my colleagues to vote down this amendment and to allow us to buy labor, to buy parts, and to procure defense at a competitive price.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. KENNEDY. Mr. President, do I have 30 seconds remaining? I do not believe I have used all my time.

The PRESIDING OFFICER. All time has elapsed on the amendment.

Mr. NUNN. Mr. President, I ask unanimous consent that there be 2 minutes equally divided between the parties.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I yield myself 1 minute.

Mr. President, I believe that the American people are outraged by fraud, by waste, and by abuse, by the fact that the public is being gouged by defense contractors.

The Senator from Texas has not said that when the Defense Department was paying \$700 for a toilet seat, the worker who was making it was being overpaid, or that when the Defense Department was paying \$685 for ashtrays for military jets, the worker on that assembly line was getting an inflated wage.

I refuse to accept the argument of the Senator from Texas that those who are going to be working in the most important areas of national security, for American service men and women, should not be entitled to the prevailing wage in the community. The American people are not upset about blue collar wages. They are concerned about gouging by defense contractors. That is not the question here.

Mr. GRAMM. Mr. President, apparently fraud, waste, and abuse are the things we do not accept when a contractor is doing it, but we do accept it when Congress is doing it.

In every abuse you outlined, those were union laborers being paid premium wages.

You talk about toilet seats and cathode tubes and crescent wrenches. We are talking about a larger saving here, on this one vote, than we have ever paid in the history of the Republic, for toilet seats.

Mr. KENNEDY. You tell me—  
Mr. GRAMM. Regular order, Mr. President. I have the floor.

The PRESIDING OFFICER. The Senator from Texas has the floor.

Mr. GRAMM. We are talking about more money here, on this one vote,

than we have ever paid for toilet and crescent wrenches and cathode tubes in the whole history of the public.

The issue here is: Are we going to impose the same standards of efficiency in the actions we take that we on defense contractors to take? Are we going to play politics with special interest groups, or are we going to represent the interests of the American people? That is the issue here, and that is the issue that is going to be determined on this vote.

The PRESIDING OFFICER. The Senator's time has expired.

The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from South Dakota (Mr. PRESSLER) is necessarily absent.

I also announce that the Senator from North Carolina (Mr. EAST) is absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. EAST) would vote nay.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 49, as follows:

[Rollcall Vote No. 97 Leg.]

## YEAS—49

Andrews	Gore	Moynihan
Baucus	Harkin	Murkowski
Biden	Hart	Packwood
Bingaman	Heflin	Pell
Bradley	Heinz	Proxmire
Burdick	Inouye	Riegle
Byrd	Kennedy	Rockefeller
Chiles	Kerry	Sarbanes
Cranston	Lautenberg	Sasser
D'Amato	Leahy	Simon
Danforth	Levin	Specter
Dixon	Long	Stafford
Dodd	Mathias	Stennis
Durenberger	Matsunaga	Stevens
Eagleton	Melcher	Weicker
Ford	Metzenbaum	
Glenn	Mitchell	

## NAYS—49

Abdnor	Gorton	McConnell
Armstrong	Gramm	Nickles
Bentsen	Grassley	Nunn
Boren	Hatch	Pryor
Boschwitz	Hatfield	Quayle
Bumpers	Hawkins	Roth
Chafee	Hecht	Rudman
Cochran	Helms	Simpson
Cohen	Hollings	Symms
DeConcini	Humphrey	Thurmond
Denton	Johnston	Trible
Dole	Kassebaum	Wallop
Domenici	Kasten	Warner
Evans	Laxalt	Wilson
Exon	Lugar	Zorinsky
Garn	Mattlingly	
Goldwater	McClure	

## NOT VOTING—2

East  
Pressler

So the amendment (No. 254) was rejected.

Mr. GOLDWATER. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate is not in order.

The majority leader is recognized.

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Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. GRAMM. I move to lay that motion on the table.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to lay on the table to reconsider the vote by which the amendment was rejected. The yeas and nays have been ordered and the clerk will call the roll.

Mr. HEINZ (when his name was called). Mr. President, I have a live pair with Senator EAST. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. SIMPSON. I announce that the Senator from South Dakota [Mr. PRESSLER] is necessarily absent.

I also announce that the Senator from North Carolina [Mr. EAST], is absent due to illness.

The result was announced—yeas 49, nays 48, as follows:

[Rollcall Vote No. 98 Leg.]

## YEAS—49

Abdnor	Gorton	McClure
Armstrong	Gramm	McConnell
Bentsen	Grassley	Nickles
Boren	Hatch	Nunn
Boschwitz	Hatfield	Pryor
Bumpers	Hawkins	Quayle
Chafee	Hecht	Roth
Cochran	Helms	Rudman
Cohen	Hollings	Simpson
DeConcini	Humphrey	Symms
Denton	Johnston	Thurmond
Dole	Kassebaum	Tribie
Domenici	Kasten	Wallop
Evans	Laxalt	Warner
Exon	Lugar	Wilson
Garn	Mattingly	Zorinsky
Goldwater		

## NAYS—48

Andrews	Glenn	Mitchell
Baucus	Gore	Moynihan
Biden	Harkin	Murkowski
Bingaman	Hart	Packwood
Bradley	Heflin	Pell
Burdick	Inouye	Proxmire
Byrd	Kennedy	Riegle
Chiles	Kerry	Rockefeller
Cranston	Lautenberg	Sarbanes
D'Amato	Leahy	Sasser
Danforth	Levin	Simon
Dixon	Long	Specter
Dodd	Mathias	Stafford
Durenberger	Matsunaga	Stennis
Eagleton	Melcher	Stevens
Ford	Metzenbaum	Weicker

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Heinz, against

## NOT VOTING—2

East  
Pressler

So the motion to lay on the table the motion to reconsider was agreed to.

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOLE. Mr. President, let me indicate that we are now prepared to start what could be a lengthy day on SDI amendments. The distinguished

Senator from Massachusetts [Mr. KERRY] has 30 minutes on his amendment; Senator GOLDWATER has 10. Then there will be a vote of some kind. Then Senator PROXMIER will offer his SDI amendment, and there are 13 additional SDI amendments if they are all offered. It is our hope to finish the SDI amendment today—today and tonight, probably into the morning. So I indicate to my colleagues that if we can make our points in good, brief debate, it will be very helpful.

The chairman of the committee, the managers on both sides, it is my understanding, would like to finish the SDI portion this evening. In the meantime, I shall try to work out some arrangement on all the different SALT amendments that could be offered to this legislation, because tomorrow, we would like to move to the State Department authorization to offer the so-called Contra amendments. There are seven of those.

## AMENDMENT NO. 252

(Purpose: To provide an overriding, exclusive authorization for Strategic Defense Initiative programs for fiscal year 1986)

Mr. GOLDWATER. Mr. President, how much time do we have?

The PRESIDING OFFICER. The Senator from Arizona has 10 minutes under his control. The Senator from Massachusetts [Mr. KERRY] has 30 minutes under his control.

Mr. GOLDWATER. A parliamentary inquiry Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. GOLDWATER. What is the amendment?

The PRESIDING OFFICER. The amendment is the amendment of the junior Senator from Massachusetts [Mr. KERRY], No. 252.

Mr. GOLDWATER. I yield myself 4 minutes.

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the amendment of the Senator from Massachusetts [Mr. KERRY], amendment No. 252. The yeas and nays have been ordered. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY] for himself and others, proposes an amendment numbered 252.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, I was struck by the comments that the Senator from Massachusetts made yesterday in support of his amendment to reduce funding for the President's strategic defense initiative. My colleague provided an extremely moderate view of Soviet ballistic missile defense capabilities, and their implications for U.S. national security. This rather misleading view of Soviet activities is consistent with the lack of urgency in his amendment in pursuing the strategic defense initiative. However,

er, the facts about Soviet ballistic missile defense capabilities and the implications they bear for our Nation's security, are far more serious.

Since the signing of the ABM Treaty in 1972, the Soviets have continued to invest just as much in their strategic defensive forces as they have in their strategic offensive forces. This includes a large investment in strategic air defense and it demonstrates that the Soviet Union never abandoned strategic defense as we have in the United States.

Today, the Soviet Union has the world's only operational anti-ballistic missile [ABM] system deployed around Moscow. This system is permitted by the ABM Treaty, and it is being upgraded with more modern and effective interceptors. The Soviets also have a network of large phased-array early-warning radars that can perform battle management functions when linked together. One of these radars, located in central Siberia near the town of Krasnoyarsk, is a clear violation of the 1972 ABM Treaty. This radar network, together with an open production line for ABM interceptors, provides the Soviet Union with the capability to rapidly deploy nation-wide ballistic missile defenses. These facts contradict the assertions of the Senator from Massachusetts.

I also remind my colleague from Massachusetts that it is the location and orientation of the Krasnoyarsk radar that makes it a violation of the ABM Treaty. Ballistic missile early warning radars can perform space tracking functions, but this does not change the fact that their function is still early warning. The Pave Paws radars that the Senator from Massachusetts cites with concern regarding U.S. compliance with the ABM Treaty are located along the periphery of the United States, and oriented outwards, as required by the treaty.

The Soviets also have surface-to-air missiles [SAM's], such as the SA-12, that are capable of shooting down a number of U.S. strategic ballistic missile warheads. And while we have no proof that the Soviets have tested this system against strategic reentry vehicles, these SAM's have been operating at ballistic missile defense test facilities during such testing. Thus, without committing an overt violation of the ABM Treaty, the Soviets have developed—and will soon be deploying in large numbers—a surface-to-air missile that can function as an ABM interceptor.

All of these factors viewed together suggest that the Soviet Union is preparing an ABM defense of their national territory. Such defenses would be particularly effective against U.S. retaliatory forces that have been crippled by a Soviet preemptive attack. The preparation of a nationwide defense by the Soviet Union undermines the letter, spirit, and intent of the ABM Treaty.